

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

UNITED STATES OF AMERICA )  
v. ) Case No. 1-09-CR-7  
PHILLIP KELLY ) JUDGE COLLIER  
 ) MAGISTRATE JUDGE LEE

**O R D E R**

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the nineteen-count superseding Indictment (2) accept Defendant's plea of guilty to the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A); (3) adjudicate Defendant guilty of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Court File No. 159). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Court File No. 159) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS**

as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Superseding Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, September 24, 2009 at 9:00 a.m.** before the Honorable Curtis L. Collier.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**